

**57-19-1. Short title.**

This chapter is known and may be cited as the "Timeshare and Camp Resort Act."

Enacted by Chapter 73, 1987 General Session

**57-19-2. Definitions.**

As used in this chapter, unless the context clearly requires otherwise:

(1) "Accommodations" includes hotel or motel rooms, condominium or cooperative units, cabins, lodges, apartments, and private or commercial structures designed for occupancy by one or more individuals.

(2) "Advertisement" means a written, printed, audio, or visual offer made by general solicitation.

(3) "Association" means an organized body consisting solely of owners of timeshare interests in a timeshare development that has been registered with the division.

(4) "Business day" means a day other than a Saturday, Sunday, or state or federal holiday.

(5) "Camp resort" means any enterprise that has as its primary purpose the offering of a camp resort interest.

(6) "Camp resort interest" means the right to use and occupy a camping site.

(7) "Camping site" means a space designed or promoted for the purpose of locating a trailer, tent, tent trailer, pickup camper, or other similar device used for land-based portable housing.

(8) "Developer" means a person who:

(a) establishes, promotes, owns, or operates a timeshare development or camp resort; or

(b) engages one or more other persons to establish, promote, or operate a timeshare development or camp resort on the person's behalf.

(9) "Director" means the director of the division.

(10) "Division" means the Division of Real Estate of the Department of Commerce.

(11) "Executive director" means the executive director of the Department of Commerce.

(12) "Interest" means a camp resort interest or a timeshare interest.

(13) "Offer" means a solicitation intended to result in a person purchasing an interest in a project.

(14) "Project" means a camp resort or timeshare development.

(15) "Purchaser" means a person who purchases an interest in a project.

(16) "Sale" or "sell" means selling an interest in a project for value. It does not include charging a reasonable fee to offset the administrative costs of transferring an interest in a project.

(17) "Salesperson" means an individual who, for compensation and as agent for another, is engaged in obtaining commitments of persons to purchase an interest in a project by making direct sales presentations to those persons. It does not include

purchasers or members engaged in the referral of persons without making a direct sales presentation to them.

(18) "Timeshare development" means any enterprise that has as its primary purpose the offering of a timeshare interest, including a project in which the purchase of an interest gives the purchaser the right to use and occupy an accommodation at one specific site or more than one site.

(19) "Timeshare interest" means a right to occupy fixed or variable accommodations during three or more separate fixed or variable time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land. It includes what is commonly known as a "timeshare estate," which is a small undivided fractional fee interest in real property by which the purchaser does not receive any right to use accommodations except as provided by contract, declaration, or other instrument defining a legal right.

Amended by Chapter 166, 2012 General Session

#### **57-19-3. Rules.**

The director may make, amend, and repeal rules, forms, and orders when necessary to carry out the provisions of this chapter.

Enacted by Chapter 73, 1987 General Session

#### **57-19-4. Unregistered sales prohibited.**

Except for transactions exempt under Section 57-19-26, it is unlawful for any person to offer or sell in this state an interest in a project unless the project is registered under this chapter.

Enacted by Chapter 73, 1987 General Session

#### **57-19-5. Registration -- Filing application.**

(1) A person may apply for registration of a project by filing with the director:

- (a) an application in the form prescribed by the director;
- (b) the written disclosure required to be furnished to prospective purchasers by Section 57-19-11; and
- (c) financial statements and other information that the director may by rule require as being reasonably necessary to determine whether the requirements of this chapter have been met and whether any of the events specified in Subsection 57-19-13(1)(g) have occurred.

(2) Interests in a project which are encumbered by liens, mortgages, or other encumbrances may not be accepted for registration or offered for disposition to the public unless:

- (a) adequate release or nondisturbance clauses are contained in the encumbering instruments to reasonably assure that the purchaser's interest in the project will not be defeated; or

- (b) the division has accepted other equivalent assurances which, in the opinion

of the division, meet the purposes of this Subsection (2).

(3) (a) Each application for registration of a project shall be accompanied by:

(i) a filing fee of \$500 for up to 100 interests, plus an additional \$3 per interest for each interest over 100, up to a maximum of \$2,500 for each application; and

(ii) subject to Subsection (3)(b), a deposit of \$300 to cover all on-site inspection costs and expenses incurred by the division.

(b) (i) If the \$300 deposit is insufficient to meet the estimated costs and expenses of the on-site inspection, the applicant shall make an additional deposit sufficient to cover the estimated costs and expenses before the division will inspect the subdivided lands.

(ii) The deposit shall be refunded to the extent it is not used, together with an itemized statement from the division of all amounts it has used.

(4) If a person registers additional interests to be offered for disposition, the person may consolidate the subsequent registration with any earlier registration offering interests for disposition in the same project by filing an application for consolidation accompanied by an additional fee of \$200 plus \$3 for each additional interest, up to a maximum of \$1,250 for each application, if at the time the person makes the application all of the information required by Subsection (1) has been brought current and covers the additional interests.

Amended by Chapter 352, 2009 General Session

**57-19-6. Effective date of application.**

(1) An application for registration filed pursuant to Section 57-19-5 is effective upon the expiration of 30 business days following its filing with the director, unless:

(a) an order denying the application pursuant to Section 57-19-13 is in effect;

(b) a prior effective date has been ordered by the director; or

(c) the director has, prior to that date, notified the applicant of a defect in the registration application.

(2) An applicant may consent to the delay of effectiveness until the director by order declares the registration to be effective.

(3) (a) Notwithstanding Section 57-19-4, the division may grant a temporary permit allowing the developer to begin a sales and marketing program while the registration is in process.

(b) To obtain a temporary permit, the developer shall:

(i) submit an application to the division for a temporary permit in the form required by the division;

(ii) submit a substantially complete application for registration to the division, including all appropriate fees and exhibits required under Section 57-19-5, plus a temporary permit fee of \$100;

(iii) provide evidence acceptable to the division that all funds received by the developer or marketing agent will be placed into an independent escrow with instructions that funds will not be released until a final registration has been granted;

(iv) give to each purchaser and potential purchaser a copy of the proposed property report that the developer has submitted to the division with the initial

application; and

(v) give to each purchaser the opportunity to cancel the purchase in accordance with Section 57-19-12.

(c) A purchaser shall have an additional opportunity to cancel upon the issuance of an approved registration if the division determines that there is a substantial difference in the disclosures contained in the final property report and those given to the purchaser in the proposed property report.

(4) (a) Notwithstanding Section 57-19-4, a developer or a person acting on behalf of a developer may market and accept a reservation and deposit from a prospective purchaser before submitting to the division a registration or temporary permit application for a project if:

(i) the deposit is placed in a non-interest bearing escrow account with a licensed real estate broker, a title company, or another escrow that the division approves in advance; and

(ii) the deposit is guaranteed to be fully refundable at any time at the request of the prospective purchaser.

(b) A deposit that a prospective purchaser tenders under Subsection (4)(a) may not be released to the developer until after:

(i) the division approves the project registration; and

(ii) the prospective purchaser executes a written purchase contract creating a binding obligation to purchase.

Amended by Chapter 166, 2012 General Session

#### **57-19-7. Prior permits.**

Any permit to market a project issued by the division prior to April 27, 1987, is considered to be an effective registration, but is subject to the renewal provisions of this chapter upon the anniversary date of the issuance of the original permit.

Enacted by Chapter 73, 1987 General Session

#### **57-19-8. Filing proposed documents.**

(1) Every developer shall file with the director at least five business days prior to using any of the following in this state:

(a) the proposed form of its sales contracts; and

(b) copies or the text of any supplements to the written disclosure required to be furnished to prospective purchasers pursuant to Section 57-19-11.

(2) If the text, rather than copies, of the materials specified in Subsection (1) are filed, copies of these materials shall be filed with the director within five business days following the date the materials are first used.

(3) The developer shall notify the division within five working days if he is convicted in any court of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions, or has been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.

(4) The developer must notify the division within five working days if the developer files a petition in bankruptcy or if any other event occurs which may have a material adverse effect on the subdivision.

(5) (a) If any suit by or against a developer of a camp resort or timeshare development results in a court finding that the developer engaged in fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in a real estate transaction, the developer shall promptly furnish the division a copy of the final order, settlement agreement, consent agreement, or other document evidencing resolution of the case at the trial level, whether or not an appeal is anticipated.

(b) A developer's failure to comply with Subsection (5)(a) may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

Amended by Chapter 166, 2012 General Session

**57-19-9. Duration of registration -- Amendment and renewal --  
Supplemental disclosure -- Notice of amendment.**

(1) Registration of a project is effective for a period of one year and may, upon application, be renewed for successive periods of one year each.

(2) A registration may be amended at any time, for any reason, by filing an amended application for registration, which amended registration shall become effective in the manner provided in Section 57-19-6.

(3) The written disclosure required to be furnished to prospective purchasers pursuant to Section 57-19-11 shall be supplemented as often as is necessary to keep the required information reasonably current. These supplements shall be filed with the director as provided in Section 57-19-8.

(4) Every developer shall provide timely notice sent to the director of any event which has occurred which may have a material adverse effect on the conduct of the operation of the project. In addition to this notification, the developer shall, within 30 days of the occurrence of that event, file an amendment to the registration disclosing the information previously provided.

(5) Each application for renewal of a registration and each supplementary filing as provided in this section shall be accompanied by a fee of \$200.

Amended by Chapter 86, 2000 General Session

**57-19-10. Effect of application or registration -- Misleading statements to prospective purchasers a misdemeanor.**

Neither the fact that an application for registration or the written disclosures required by this chapter have been filed, nor the fact that a project has been effectively registered or exempted, constitutes a finding by the director that the offering or any document filed under this chapter is true, complete, and not misleading, nor does either of these facts mean that the director has determined in any way the merits or qualifications of, or recommended or given approval to, any person, developer, or transaction involving an interest in a project. It is a class A misdemeanor to make or

cause to be made to any purchaser or prospective purchaser any offering or document filed under this chapter which is untrue, incomplete, or misleading.

Enacted by Chapter 73, 1987 General Session

**57-19-11. Disclosure required.**

Except in a transaction exempt under Section 57-19-26, any person who sells or offers to sell an interest in a project located in this state, or who sells or offers to sell in this state an interest in a project located outside of this state, shall provide to the prospective purchaser, before the prospective purchaser signs an agreement to purchase an interest in a project or gives any item of value for the purchase of an interest in a project, a written statement which provides a full and fair disclosure of information regarding the project and the purchaser's rights and obligations associated with the purchase of an interest in a project. The written disclosure shall be on the property report form required by the division and shall include:

- (1) the name and address of the developer;
- (2) a statement whether or not the developer has ever been:
  - (a) convicted of a felony, or any misdemeanor involving theft, fraud, or dishonesty; or
  - (b) enjoined from, assessed any civil penalty for, or found to have engaged in the violation of any law designed to protect consumers;
- (3) a brief description of the developer's experience in timeshare, camp resort, or any other real estate development;
- (4) a brief description of the interest which is being offered in the project;
- (5) a description of any provisions to protect the purchaser's interest from loss due to foreclosure on any underlying financial obligation of the project;
- (6) a statement of the maximum number of interests in the project to be marketed, and a commitment that this maximum number will not be exceeded unless disclosed by filing an amendment to the registration as provided in Section 57-19-9 prior to the amendment becoming effective;
- (7) any event which has occurred as of the date of the offer which may have a material adverse effect on the operation of the project; and
- (8) any other information the director considers necessary for the protection of purchasers.

Amended by Chapter 165, 1991 General Session

**57-19-12. Purchaser's right to cancel.**

- (1) (a) An agreement to purchase an interest in a project may be cancelled, at the option of the purchaser, if:
  - (i) the purchaser provides to the developer, by hand delivery or certified mail, written notice of the cancellation; and
  - (ii) the notice is delivered or postmarked not later than midnight of the fifth business day following the day on which the agreement is signed.
- (b) In computing the number of business days for purposes of this section, the

day on which the agreement was signed is not included.

(c) Within 30 days after receipt of timely notice of cancellation, the developer shall refund any money or other consideration paid by the purchaser.

(2) Every agreement to purchase an interest in a project which is subject to this chapter shall include the following statement in at least 10-point bold upper-case type, immediately preceding the space for the purchaser's signature:

"PURCHASER'S RIGHT TO CANCEL: YOU MAY CANCEL THIS AGREEMENT WITHOUT ANY CANCELLATION FEE OR OTHER PENALTY BY HAND DELIVERING OR SENDING BY CERTIFIED MAIL WRITTEN NOTICE OF CANCELLATION TO: (NAME AND ADDRESS OF DEVELOPER). THE NOTICE MUST BE DELIVERED OR POSTMARKED BY MIDNIGHT OF THE FIFTH BUSINESS DAY FOLLOWING THE DAY ON WHICH THE AGREEMENT IS SIGNED. IN COMPUTING THE NUMBER OF BUSINESS DAYS, THE DAY ON WHICH THE CONTRACT IS SIGNED IS NOT INCLUDED."

Amended by Chapter 166, 2012 General Session

**57-19-13. Suspension, revocation, or denial of registration -- Fine.**

(1) Subject to Section 57-19-17, an application for registration of a project may be denied, an existing registration may be suspended or revoked, or a fine of not more than \$500 may be imposed by the director, if the director finds that:

(a) the developer's advertising or sales techniques or trade practices have been or are deceptive, false, or misleading;

(b) the developer has failed to file copies of its sales contract forms as required by Section 57-19-8;

(c) the developer has failed to comply with any provision of this chapter or the rules adopted under this chapter that materially affect or would affect the rights of purchasers or prospective purchasers of an interest in a project, or that materially affect the administration of this chapter;

(d) the developer's offering of an interest in a project has worked or would work a fraud upon purchasers or prospective purchasers of such an interest;

(e) the developer's application or any amendment to an application is incomplete in any material respect;

(f) the developer's application or any amendment to an application contains material misrepresentations or omissions of material fact which are necessary to make the statements contained in the application or amendment not misleading;

(g) the developer or any officer or director of the developer has been:

(i) convicted of a felony, or any misdemeanor involving theft, fraud, or dishonesty;

(ii) enjoined from, assessed a civil penalty for, or found to have engaged in the violation of any law designed to protect consumers; or

(iii) engaged in dishonest practices in any industry involving sales to consumers;

(h) the developer has represented or is representing to purchasers in connection with the offer or sale of an interest in a project that any accommodations,

related facilities, or amenities are planned, without reasonable grounds to believe that they will be completed within a reasonable time;

(i) the developer has disposed of, concealed, or diverted any funds or assets so as to defeat the rights of purchasers;

(j) the developer has failed to provide to purchasers copies of the written disclosure required by Section 57-19-11; or

(k) the developer, the developer's successor in interest, or a managing association discloses a purchaser's name, address, or email address to an unaffiliated entity without first obtaining written consent from the purchaser, unless the disclosure is in response to a subpoena or an order of a court or administrative tribunal.

(2) The authority to impose fines as provided in this section does not apply to Subsection (1)(e).

(3) Notwithstanding Subsection (1)(k), a developer shall, upon request by the division, provide the division a list of all purchasers' names, addresses, and email addresses.

Amended by Chapter 166, 2012 General Session

**57-19-14. Registration of salesperson.**

(1) Unless the transaction is exempt under Section 57-19-26, it is unlawful for any person to act as a salesperson marketing a project in this state without first registering under this chapter as a salesperson.

(2) The fee for registration as a salesperson is waived by the division for persons licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.

Amended by Chapter 379, 2010 General Session

**57-19-15. Application for registration of salesperson.**

(1) A person may apply for registration as a salesperson under this chapter by filing with the director an application in the form prescribed by the director, including:

(a) a statement of whether or not the applicant has ever been:

(i) convicted of:

(A) a felony; or

(B) a misdemeanor involving theft, fraud, or dishonesty; or

(ii) enjoined from, assessed a civil penalty for, or found to have engaged in the violation of a law designed to protect a consumer;

(b) (i) a statement describing the applicant's employment history for the five years immediately preceding the day on which the application is filed; and

(ii) a statement of whether or not a termination of employment during the period described in Subsection (1)(b)(i) is as a result of theft, fraud, or an act of dishonesty; and

(c) any other information that the director, by rule, considers necessary to protect the interests of a purchaser.

(2) Notwithstanding the requirements for a regulatory fee under Section

63J-1-504, at the time an applicant files an application, the applicant shall pay to the division a fee of \$100.

(3) (a) Registration as a salesperson is effective for a period for two years, unless the director specifies otherwise.

(b) To renew a registration a salesperson shall:

- (i) file a form prescribed by the director for that purpose; and
- (ii) pay a renewal fee of \$100.

Amended by Chapter 352, 2009 General Session

**57-19-16. Denial, revocation, or suspension of registration of salesperson**  
**-- Fine.**

(1) Subject to Section 57-19-17, if the director finds that an applicant or salesperson has engaged in an act described in Subsection (2), the director may:

- (a) deny an application for registration as a salesperson;
- (b) suspend or revoke an existing registration; or
- (c) impose a civil penalty not to exceed \$500.

(2) Subsection (1) applies if the director finds that the applicant or salesperson:

- (a) files, or causes to be filed, with the director a document that contains an untrue or misleading information;
- (b) makes an untrue or misleading statement of material fact;
- (c) fails to state a material fact that is necessary in order to make the statements made not misleading in light of the circumstances under which the statements are made;
- (d) employs a device, scheme, or artifice to defraud, or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit upon a person;
- (e) subsequent to the effective date of registration as a salesperson, is:
  - (i) convicted of:
    - (A) a felony; or
    - (B) a misdemeanor involving theft, fraud, or dishonesty; or
  - (ii) enjoined from, assessed a civil penalty for, or found to have engaged in a violation of any law designed to protect consumers;
- (f) violates this chapter;
- (g) engages in an activity that constitutes dishonest dealing; or
- (h) engages in unprofessional conduct as defined by statute or rule made by the director.

Amended by Chapter 352, 2009 General Session

**57-19-17. Administrative procedures.**

(1) The director may summarily deny an application for registration under any of the provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant may, within 10 days after receipt of notice of the denial, request a hearing before an administrative law judge. The director shall schedule the hearing within 30 days after

receipt of the applicant's request and give notice of the hearing in writing to the applicant, specifying the reasons for denial of the registration. If, as a result of the hearing, it is determined that the applicant is qualified to be registered, the registration shall be issued.

(2) Before an existing registration is suspended or revoked, or a fine imposed, the director shall schedule a hearing before an administrative law judge and give notice in writing to the affected person as prescribed in Title 13, Chapter 1, and the rules of procedure for hearings before the Department of Commerce. If, as a result of the hearing, the administrative law judge finds that there has been a violation of this chapter, the registration shall be suspended or revoked, or a fine imposed, by written order of the director in concurrence with the executive director.

(3) The developer or salesperson has the right to appear at the hearing, in person or by counsel, to be heard and to examine witnesses appearing in connection with the complaint. At the hearing, all witnesses shall be sworn by the administrative law judge, and stenographic notes or a tape recording of the proceeding shall be taken and filed as a part of the record in the case. Any party to the proceeding shall be furnished a copy of the stenographic notes or tape recording at a reasonable cost. The administrative law judge shall render a decision within 60 days after the completion of the hearing. The executive director and the director shall concurrently make the final decision and promptly notify the parties to the proceedings, in writing, of the ruling, order, or decision.

(4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling, order, or decision of the executive director and the director to the district court for the county in which the hearing was held, within 30 days from the date of service of notice of the ruling, order, or decision upon him. At the time of filing the notice of appeal, the appellant shall file with the notice a bond for costs on appeal in the amount of \$200, conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed.

Amended by Chapter 225, 1989 General Session

#### **57-19-18. Investigation -- Publication.**

(1) The director may make any investigations or requests for information, within or outside of this state, that he considers necessary:

(a) to determine whether any registration under this chapter should be granted, denied, or revoked;

(b) to determine whether any person has violated or is about to violate any of the provisions of this chapter or any rule or order under this chapter; or

(c) to aid in the enforcement of this chapter.

(2) The director may publish information concerning any violation of this chapter or any rule or order under this chapter.

Enacted by Chapter 73, 1987 General Session

#### **57-19-19. Subpoenas -- Evidence.**

(1) For the purposes of any investigation or proceeding under this chapter, the director, or any officer designated by him, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director considers relevant or material to the inquiry.

(2) A person who disobeys any subpoena lawfully issued by the director, or who refuses to testify to any matters regarding which he may be lawfully interrogated, is subject to the provisions of Section 78B-6-313.

Amended by Chapter 3, 2008 General Session

**57-19-20. Injunctive relief -- Cease and desist order.**

(1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, and that it would be in the public interest to stop those acts or practices, the director may either:

(a) seek injunctive relief as provided in Rule 65A, Utah Rules of Civil Procedure; or

(b) issue an administrative cease and desist order.

(2) If an administrative cease and desist order is issued pursuant to Subsection (1), the person upon whom the order is served may, within 10 days after receiving the order, request that a hearing be held before an administrative law judge. If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. Pending the hearing, the order remains in effect.

(3) If, at the hearing, a finding is made that there has been a violation of this chapter, the director, with the concurrence of the executive director, may issue an order making the cease and desist order permanent. If no hearing is requested, and if the person fails to cease the act or practice, or after discontinuing the act or practice again commences it, the director shall file suit in the district court of the county in which the act or practice occurred, or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter.

(4) Whether or not the director has issued a cease and desist order, the attorney general, in the name of the state or of the director, may bring an action in any court of competent jurisdiction to enjoin any act or practice constituting a violation of any provision of this chapter, and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

Amended by Chapter 382, 2008 General Session

**57-19-21. Voidable agreements.**

Any agreement to purchase an interest in a project entered into in violation of Section 57-19-4 or 57-19-14 may, at the option of the purchaser, be voided and the purchaser's entire consideration recovered together with interest at the legal rate,

costs, and reasonable attorney's fees. However, no suit under this section may be brought more than two years after:

- (1) the date the agreement is signed; or
- (2) the date the purchaser knew or reasonably should have known of the violation.

Enacted by Chapter 73, 1987 General Session

**57-19-22. Violation a misdemeanor.**

Any person who willfully violates any provision of this chapter is guilty of a class B misdemeanor.

Amended by Chapter 241, 1991 General Session

**57-19-23. Prosecution.**

The director may refer any available evidence concerning violations of this chapter or of any rule or order under this chapter to the attorney general or the proper prosecuting attorney, who may, in his discretion, with or without such a referral, institute the appropriate civil or criminal proceedings under this chapter.

Enacted by Chapter 73, 1987 General Session

**57-19-24. Violation of Consumer Sales Practice Act.**

For purposes of applying Title 13, Chapter 11, the Consumer Sales Practices Act, any material violation of the provisions of this chapter constitutes an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

Enacted by Chapter 73, 1987 General Session

**57-19-25. Remedies nonexclusive.**

The remedies provided in this chapter are cumulative and nonexclusive, and do not affect any other remedy available at law.

Enacted by Chapter 73, 1987 General Session

**57-19-26. Exemptions.**

(1) Unless entered into for the purpose of evading the provisions of this chapter, the following transactions are exempt from registration:

- (a) isolated transactions by an owner of an interest in a project or by a person holding such an owner's executed power of attorney;
- (b) an offer or sale by a governmental entity; and
- (c) the resale of an interest that is:
  - (i) acquired:
    - (A) by the developer who initially registered the project or by the managing

association of the project; and

(B) through a foreclosure, quitclaim deed, deed in lieu of foreclosure, or equivalent transfer;

(ii) not offered as part of a project that includes one or more interests that are unregistered or have been registered by a different developer or as part of a different project; and

(iii) closed after the developer or managing association provides a purchaser the disclosures required by Section 57-19-11 and the right to rescind required by Section 57-19-12.

(2) After a resale by a developer or managing association that is claimed to be exempt under Subsection (1)(c), the division retains jurisdiction to:

(a) investigate a complaint regarding the resale; and

(b) if applicable, take an administrative action against the developer or managing association on the basis of unprofessional conduct, as provided in Section 57-19-13.

(3) (a) The director may, by rule or order, exempt any person from any or all requirements of this chapter if the director finds that the offering of an interest in a project is essentially noncommercial.

(b) The offering of one or more interests in a project that has a maximum of 10 interests is considered essentially noncommercial.

Amended by Chapter 166, 2012 General Session